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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS, INC.; LTB1,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**DECLARATION OF MICHAEL S.
LEHR IN SUPPORT OF RECEIVER'S
MOTION FOR ATTORNEYS' FEES
AND NON-TAXABLE EXPENSES**

Civil No. 2:15-cv-00828-DN

The Honorable David Nuffer

I, Michael S. Lehr, declare as follows:

1. I am an attorney at the law firm of Parr Brown Gee & Loveless, P.C., the firm that is legal counsel for the Court-Appointed Receiver Wayne Klein ("Receiver") in the above caption matter. I make this declaration based upon my personal knowledge and the contents of business records known to me to be maintained in the ordinary course of business, and which I believe to be true. I have personal knowledge of the statements and matters set forth herein and, if called to testify, would testify as follows.

2. The Receiver and the receivership estate have incurred attorney fees and costs totaling \$20,013.52 (\$18,658.80 in attorney fees and \$1,354.72 in costs) to enforce the Corrected Receivership Order and for all litigation related to the Motion for Order to Show Cause Why Neldon Johnson, R. Gregory Shepard, Glenda Johnson, LaGrand Johnson, and Randale Johnson (collectively, “Respondents”) Should Not Be Held in Civil Contempt of Court.¹

SCOPE OF THE EFFORT

3. The scope of the work performed for the award of attorney fees to enforce the Corrected Receivership Order and for litigation related to the Motion included drafting oppositions to multiple motions for protective orders, preparation for and attendance at depositions where Neldon and Glenda Johnson failed to attend, preparation and attendance at the April 26, 2019, May 3, 2019, and May 28, 2019 OCS hearings, communications with the Receiver, Plaintiff, and Defendants regarding the OSC hearing and filings, and drafting this Motion. All of time spent was reasonably necessary to attain the contempt order that will hopefully lead to Respondents producing the records and information the Receiver needs to fulfill his duties under the Corrected Receivership Order.

REASONABLE DESCRIPTION OF TIME SPENT AND WORK PERFORMED

4. The following attorneys performed legal services on behalf of the Plaintiff as part of the attorney fees award sought by this declaration:

<u>Name</u>	<u>Position</u>	<u>Hourly Rate</u>	<u>Total Hours</u>
Jonathan O. Hafen	attorney/shareholder	\$370.00	.5
Jeffery A. Balls	attorney/shareholder	\$290.00	9.1
Michael S. Lehr	attorney/associate	\$220.00	81.4

¹ [Docket No. 559](#), filed January 29, 2019.

5. An itemization of the fees and costs incurred in this case, which include dates worked, timekeeper, description of work, amount of time spent for each entry, and the billable amount for such time, is attached hereto as Exhibit A. The total amount requested includes a 10% discount of the firm's rates.

RELATED COSTS

6. In addition to the attorney fees set forth above, part of the overall award includes costs for the service of the subpoenas, and for court reporter costs for the depositions where Glenda and Neldon Johnson failed to appear.

7. An itemization of these costs is attached hereto as Exhibit B.

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this 1st day of July 2019, at Salt Lake City, Utah.

/s/ Michael S. Lehr

Michael S. Lehr

Exhibit A: Itemization of Attorney Fees

DATE	ATTORNEY	DESCRIPTION	HOURS	RATE	TOTAL
1/7/2019	MSL	Draft deposition and document subpoenas for Neldon and Glenda Johnson; Communicate with Wayne Klein re depositions of Neldon and Glenda Johnson and document subpoenas; Review deposition outline	3.2	\$220.00	\$704.00
1/13/2019	MSL	Draft notice of intent to serve document subpoena upon Neldon and Glenda Johnson; Draft document subpoena to Neldon and Glenda Johnson; Communicate with Wayne Klein re same	2.1	\$220.00	\$462.00
1/14/2019	MSL	Review notice of intent to serve subpoena on Neldon Johnson; Review notice of intent to serve subpoena on Glenda Johnson	.3	\$220.00	\$66.00
1/15/2019	MSL	Communicate with Wayne Klein re subpoenas to Neldon and Glenda Johnson	.2	\$220.00	\$44.00
1/17/2019	MSL	Research re deposition witness fees and requirements for locations of depositions for Neldon and Glenda Johnson depositions	.7	\$220.00	\$154.00
1/23/2019	MSL	Communication to Wayne Klein re status of service of subpoenas to be served upon Neldon and Glenda Johnson	.3	\$220.00	\$66.00
1/29/2019	MSL	Communication with Wayne Klein re service of subpoenas to Neldon and Glenda Johnson	.2	\$220.00	\$44.00
2/4/2019	MSL	Review defendants' motion for protective order re privileged documents; Review Neldon Johnson's amended affidavit; Research scope of attorney client re Nelson Snuffer's claim of privilege in protective order	2.6	\$220.00	\$572.00

2/5/2019	MSL	Legal research for opposition to motion for protective order re Rule 26 requires to confer	.5	\$220.00	\$110.00
2/9/2019	MSL	Review motion for protective order filed by Nelson Snuffer; Draft opposition to motion for protective order	1.2	\$220.00	\$264.00
2/10/2019	MSL	Draft opposition to motion for protective order; Review order re the Receiver's authority re billing records for defendants; Review docket for citation links in opposition	5.1	\$220.00	\$1,122.00
2/11/2019	MSL	Draft opposition to Defendants' motion for protective order; Communicate with Wayne Klein re opposition to motion for protective order; Revise opposition based on comments from the Receiver	4.3	\$220.00	\$946.00
2/12/2019	MSL	Review and revise opposition to protective order; Coordinate filing of opposition to protective order	1.5	\$220.00	\$330.00
2/15/2019	MSL	Review Neldon Johnson's motion for protective order; Email communication with Wayne Klein re same; Research re 5th amendment privilege against self-incrimination	1.0	\$220.00	\$220.00
2/17/2019	MSL	Draft response to Neldon Johnson's objection to deposition based on the 5th amendment; Draft letter to counsel for Johnson re same; Communication with Wayne Klein re same	3.8	\$220.00	\$836.00
2/18/2019	MSL	Revise response and letter to Steven Paul re Neldon Johnson's objection to deposition; Communication with Wayne Klein re same; Coordinate filing of response	1.1	\$220.00	\$242.00
2/19/2019	MSL	Attend and prepare for deposition of Neldon Johnson; Telephone communication with Denver Snuffer re Glenda Johnson deposition	1.5	\$220.00	\$330.00

2/19/2019	MSL	Draft opposition to Glenda Johnson's motion for protective order; Review motion for protective order re spousal privilege; Research re spousal privilege; Draft email to Nelson Snuffer re spousal privilege and Glenda Johnson's deposition	7.9	\$220.00	\$1,738.00
2/20/2019	MSL	Attend and prepare for Glenda Johnson deposition; Draft opposition to Neldon Johnson's protective order; Compile exhibits for opposition to Glenda Johnson's motion for protective order; Compile exhibits for opposition to Neldon Johnson's motion for protective order	6.4	\$220.00	\$1,408.00
3/5/2019	MSL	Review and revise opposition to Glenda Johnson's motion for protective order; Communication with Wayne Klein and Erin Healy Gallagher re same; Review trial exhibits to attach to opposition to motion for protective order; Coordinate filing of the opposition; Review the Court's order to taking under advisement motion for order to show cause	2.8	\$220.00	\$616.00
3/7/2019	MSL	Review the Court's order that Glenda Johnson must appear at a deposition; Email counsel for Glenda Johnson re deposition; Email Wayne Klein re same	.5	\$220.00	\$110.00
3/20/2019	MSL	Prepare for and attend non-appearance deposition of Glenda Johnson; Communication with counsel for Glenda Johnson and counsel for the United States	1.6	\$220.00	\$352.00
4/23/2019	MSL	Draft Receiver's witness and exhibit list; Review documents and emails to support motion for order to show cause; Communication with Susie Bailey re preparing exhibits for OSC hearing on Friday	3.1	\$220.00	\$682.00
4/24/2019	MSL	Conference with Wayne Klein re order to show case hearing; Review	2.9	\$220.00	\$638.00

		order to show cause motion and exhibits in preparation for the hearing; Coordinate filing of exhibit and witness list for hearing; Communication with Jon Hafen re hearing			
4/24/2019	JOH	Meeting and correspond with Mike Lehr re upcoming hearing	.5	\$370.00	\$185.00
4/25/2019	MSL	Conference with Wayne Klein and Erin Healy Gallagher re order to show cause hearing; Review exhibits in preparation for show cause hearing	2.0	\$220.00	\$440.00
4/26/2019	MSL	Prepare for hearing on order to show cause motions; Review hearing exhibits; Attend hearing on show cause motions; Communication with Wayne Klein re hearing; Communication with Erin Healy Gallagher re hearing; Email communication with Steven Paul and Neldon Johnson re deposition schedule	7.2	\$220.00	\$1,584.00
4/29/2019	MSL	Review declarations of Glenda Johnson, Randale Johnson, LaGrand Johnson, and Greg Shepard re required disclosures under the Corrected Receivership Order	.6	\$220.00	\$132.00
5/2/2019	MSL	Conference with Wayne Klein, Erin Healy Gallagher, and Jeffery Balls in preparation for May 3, 2019 contempt hearing; Review and prepare exhibits for contempt hearing	2.1	\$220.00	\$462.00
5/3/2019	JAB	Travel to court; Attend order to show cause hearing;	8.3	\$290.00	\$2,407.00
5/6/2019	JAB	Conference with Michael Lehr; Review proposed orders	.8	\$290.00	\$232.00
5/7/2019	MSL	Communication with Erin Healy Gallagher re proposed order	.2	\$220.00	\$44.00
5/22/2019	MSL	Communication with Wayne Klein, Erin Healy Gallagher, and Erin Hines re upcoming contempt hearing	.6	\$220.00	\$132.00
5/28/2019	MSL	Attend hearing re civil contempt of Neldon Johnson, Glenda Johnson,	8.4	\$220.00	\$1,848.00

		Randale Johnson, and LaGrand Johnson; Review communications with counsel for the Johnsons in preparation for hearing; Review deficiencies of information provided by the Johnson for hearing; Communication with Wayne Klein and Erin Healy Gallagher re same			
5/10/2019	MSL	Review and revise the USA's proposed order re civil contempt of respondents; Draft email communication to Erin Healy Gallagher and Wayne Klein re same	1.8	\$220.00	\$396.00
5/29/2019	MSL	Draft attorneys' fees motion	2.6	\$220.00	\$572.00
5/29/2019	MSL	Draft attorneys' fees motion	1.1	\$220.00	\$242.00
					Total: \$20,732.00
					Minus 10%: \$18,658.80

Exhibit B: Itemization of Costs

DESCRIPTION	TOTAL
Service of Multiple Subpoenas upon Neldon and Glenda Johnson ²	\$993.27
Court Reporter Cost for Glenda Johnson's first failure to appear at deposition	\$191.00
Court Reporter Cost for Glenda Johnson's second failure to appear at deposition ³	\$170.45
	\$1,354.72

² The process server costs were significant due the Johnson's evasion of service. *See* [Docket No. 579-3](#).

³ The Receiver is not asking for the costs or fees associated with Neldon and Glenda Johnson's depositions in early May 2019.